

November 13, 2009

**REQUEST BY THE ATTORNEY GENERAL OF THE STATE OF UTAH
FOR PROPOSALS TO SERVE AS BOND COUNSEL, DISCLOSURE
COUNSEL, OR BOTH, TO THE BOARD OF REGENTS OF THE STATE OF
UTAH AND SALT LAKE COMMUNITY COLLEGE ("SLCC") FOR THE
ISSUANCE OF APPROXIMATELY \$8-9 MILLION OF REVENUE BONDS
TO REFUND SLCC'S 1998 AND 2001 REVENUE BOND ISSUES**

**PLEASE NOTE: WRITTEN PROPOSALS MUST BE RECEIVED NO LATER THAN
12:00 P.M. (NOON) ON THURSDAY, NOVEMBER 19, 2009.**

To the Law Firm(s) or Attorney(s) Addressed:

The Attorney General of the State of Utah ("Attorney General") is requesting proposals from attorneys and firms interested in serving as bond counsel or disclosure counsel or both for the Board of Regents of the State of Utah ("Board") and Salt Lake Community College ("SLCC") for the issuance of approximately \$8-9 million of revenue bonds to refund some or all of the outstanding revenue bonds issued in 1998 and 2001.

OVERVIEW

In 1998, the Board and SLCC issued revenue bonds ("1998 Bonds") to refund revenue bonds issued in 1992 pay for renovations to SLCC's Student Center. In 2001, the Board and SLCC issued revenue bonds ("2001 Bonds") to pay for construction of SLCC's Lifetime Activities Center. The 1998 Bonds are currently callable and can be called at any time. The 2001 Bonds are callable beginning June 1, 2011. The Board and SLCC wish to issue approximately \$8-10 million of revenue bonds to refund the 1998 Bonds and the 2001 Bonds. The Board and SLCC have requested that the Attorney General appoint bond counsel and disclosure counsel for this bond issue.

The Board and SLCC want to be able to sell the bonds while interest rates are low, and maximum savings can be realized. The Board and SLCC want to present the proposed bond issue to the Board for authorization at the Board's next meeting, which is tentatively scheduled for Friday, December 11, 2009, at the University of Utah. (The Board's official web site lists the December 11 date on its regular 2009 meeting schedule, followed by "(if needed)," indicating the Board may not meet in December.) In order to have the refunding bonds considered by the Board at its December 11 meeting, the authorizing resolution and any other materials the Board must consider at that meeting must be delivered to Dr. Gregory Stauffer at the Board no later than 5:00 p.m. on Monday, November 23, 2009, so the materials can be placed in the packets that are mailed to the Board members for the December 11 meeting. **Bond counsel and disclosure counsel must therefore be prepared to commit the necessary attorney time to assisting the Board and SLCC in meeting these goals.**

NATURE OF THE APPOINTMENTS

Bond counsel and disclosure counsel appointed under this request for proposals ("RFP") will provide the necessary services for the Board and SLCC to issue the refunding bonds described above. More details of the responsibilities of bond counsel and disclosure counsel appointed under this RFP are set forth below under "Responsibilities of Bond Counsel" and "Responsibilities of Disclosure Counsel," respectively.

NOTE: Whether disclosure counsel appointed under this RFP performs any services on this bond issue will in part be determined by the wishes of the underwriter¹ for the bond issue. If the underwriter is willing to have disclosure counsel appointed by the Attorney General under this RFP perform the disclosure work, the appointed disclosure counsel will do so. However, if the underwriter wants to use its own underwriters' counsel to do the disclosure work, the appointment of disclosure counsel under this RFP will likely be rescinded by the Attorney General in order to avoid duplication of services, and to minimize the costs of issuance. The decision as to whether disclosure counsel appointed under this RFP provides services on this bond issue will be made solely by the Attorney General, after consulting with representatives of the Board, SLCC, and other members of the bond team.

APPOINTMENT BY ATTORNEY GENERAL

The Attorney General is appointing bond counsel and disclosure counsel under this RFP pursuant to Utah Code Ann. § 67-5-5 (West 2004). The procedures the Attorney General will follow in making the appointment are set forth in Utah Admin. Code R105-1.

¹ The term "underwriter" is used to mean the entire underwriting team, even though more than one underwriter may be selected by SLCC for this project.

In response to this RFP, the Attorney General will consider proposals from any firm. As used in this RFP, the term “firm” refers to any of the following: an individual attorney; two or more individual attorneys in association with each other; a law firm; two or more law firms in association with each other; or an individual attorney or two or more attorneys in association with a law firm or more than one law firm.

TERM OF APPOINTMENT

Bond counsel and disclosure counsel appointed under this RFP will serve in those capacities only for this bond issue, and only for the bonds described above, unless the appointment is modified by the Attorney General.

RESPONSIBILITIES OF BOND COUNSEL

Bond counsel will have the responsibilities, and perform the functions, usually associated with bond counsel in the issuance of revenue bonds. These services will likely include, but will not be limited to: development of necessary legal documentation; assistance with the issuance and sale of the bonds; issuance of an opinion as to the legality and validity of the bonds; issuance of an opinion regarding the tax-exempt status of the bonds; assisting, in a limited manner, in the preparation and development of an official statement for the bond issues; and attending to the details of the closings and printing of the bonds, as required. Bond counsel will also be expected to attend all meetings associated with the issuance of bonds.

Bond counsel must be prepared to commit the attorney time and other resources necessary to assist the Board and SLCC in meeting timetable goals set forth above in the last paragraph under “Overview.”

REQUIRED CONTENTS OF PROPOSALS TO SERVE AS BOND COUNSEL

Proposals must address the following criteria, which the Attorney General will use to select bond counsel:

- A. The ability of the firm to complete bonding transactions in a timely, professional manner. In evaluating this factor, the Attorney General will consider each of the following:
 - 1. The experience of the firm as bond counsel or disclosure counsel on general obligation bond and revenue bond transactions. If the firm has recently submitted a proposal to the Utah Attorney General’s office for appointment on another bond or note issue, the firm may refer to and incorporate any parts of that proposal into the proposal the firm submits in response to this RFP, updating information where necessary.

2. The professional resources available to assist with bond issues, and the names and qualifications of the principal attorney(s) who would be assigned to work on the bond issue. At least one attorney who will participate must be a member in good standing of the Utah State Bar, and at least one attorney must be listed among the attorneys in the “Municipal Bond Attorney's Section” of The Bond Buyers' Municipal Marketplace (the “Red Book”). The proposal must state which attorney(s) would actually be providing most of the services. The firm may associate with other firms or attorneys to provide services as bond counsel, but primary use of local attorneys will be a positive element in evaluating this factor.
 3. The availability of the firm to complete work on the bond issues in a timely and professional manner.
- B. The fee structure and estimated costs for the legal services provided. The proposal must state whether the firm would expect to receive the proposed fee or any part of the proposed fee, or to be reimbursed for costs incurred, in the event bonds are not issued. PREFERENCE WILL BE GIVEN FOR PROPOSED FEES BASED UPON A SET FEE, A FEE SCHEDULE BASED UPON THE DOLLAR AMOUNT OF BONDS ISSUED, HOURLY RATES WITH A CEILING, OR SOME OTHER METHOD BY WHICH THE ISSUER WILL BE ABLE TO ASCERTAIN AT THE OUTSET OF A BOND ISSUE WHAT THE LEGAL FEES FOR BOND COUNSEL WILL BE. The proposal must also state whether there would be a charge for future legal services incidental to the issuance of the bonds, and if so, what type of fee would be charged (e.g., hourly, no charge for first X number of hours, etc.).
- AS YOU PREPARE YOUR PROPOSAL, PLEASE NOTE THAT NO FUNDS ARE AVAILABLE FROM THE STATE OF UTAH, THE ATTORNEY GENERAL'S OFFICE, THE BOARD, OR SLCC FOR PAYMENT OF FEES OR COSTS IF BONDS ARE NOT ISSUED. The Attorney General, in consultation with the appropriate officials from the Board and SLCC, will allow for adjustments in bond counsel fees, if there are unusual or unforeseen circumstances that require significant additional services by bond counsel, and if funds are available from the bond issue.
- C. The number of appointments of, and the total fees received by, the firm in the last three (3) years for bonding work (including note projects) on behalf of the State, the State Board of Regents, any of the State's colleges or universities, or the Utah Higher Education Assistance Authority.

RESPONSIBILITIES OF DISCLOSURE COUNSEL

Disclosure counsel will have all the responsibilities, and will provide all the services, normally associated with disclosure counsel for revenue bond issues. These responsibilities and services will likely include, but will not be limited to: reviewing documentation developed by bond counsel and the financial advisor, and developing any additional necessary legal documentation; assisting with the issuance and sale of the bonds; issuing a 10b-5 opinion; assisting in the preparation, development, and review of an official statement for the bond issue; and performing such other duties as are normally and customarily required of disclosure counsel. Disclosure counsel will also be expected to attend all meetings they are required to attend that are associated with the bond issue.

Disclosure counsel must be prepared to commit the attorney time and other resources necessary to assist the Board and SLCC in meeting timetable goals set forth above in the last paragraph under “Overview.”

As stated above, whether the firm appointed as disclosure counsel under this RFP performs any services on this bond issue will in part be determined by the wishes of the underwriter for the bond issue. If the underwriter is willing to have the firm appointed by the Attorney General perform the disclosure work, the appointed disclosure counsel will do so. If the underwriter wants to appoint underwriters' counsel to do the disclosure work, the appointment of disclosure counsel under this RFP for the bond issue will likely be rescinded by the Attorney General in order to keep down the costs of issuance, but the decision as to whether disclosure counsel also performs services on the bond issue will be made solely by the Attorney General, after consulting with representatives of the Board, SLCC, and other members of the bond team.

REQUIRED CONTENTS OF PROPOSALS TO SERVE AS DISCLOSURE COUNSEL

Proposals must address the following criteria, which the Attorney General will use to select disclosure counsel:

- A. The ability of the firm to complete bonding transactions in a timely, professional manner. In evaluating this factor, the Attorney General will consider each of the following:
 - 1. The experience of the firm as bond counsel or disclosure counsel on general obligation bond and revenue bond transactions. If the firm has recently submitted a proposal to the Utah Attorney General's office for appointment on another bond or note issue, the firm may refer to and incorporate any parts of that proposal into the proposal the firm submits in response to this RFP, updating information where necessary.

2. The professional resources available to assist with bond issues, and the names and qualifications of the principal attorney(s) who would be assigned to work on the bond issue. At least one attorney who will participate must be a member in good standing of the Utah State Bar, and at least one attorney must be listed among the attorneys in the “Municipal Bond Attorney's Section” of The Bond Buyers' Municipal Marketplace (the “Red Book”). The proposal must state which attorney(s) would actually be providing most of the services. The firm may associate with other firms or attorneys to provide services as disclosure counsel, but primary use of local attorneys will be a positive element in evaluating this factor.
 3. The availability of the firm to complete work on the bond issues in a timely and professional manner.
- B. The fee structure and estimated costs for the legal services provided. The proposal must state whether the firm would expect to receive the proposed fee or any part of the proposed fee, or to be reimbursed for costs incurred, in the event bonds are not issued. PREFERENCE WILL BE GIVEN FOR PROPOSED FEES BASED UPON A SET FEE, A FEE SCHEDULE BASED UPON THE DOLLAR AMOUNT OF BONDS ISSUED, HOURLY RATES WITH A CEILING, OR SOME OTHER METHOD BY WHICH THE ISSUER WILL BE ABLE TO ASCERTAIN AT THE OUTSET OF A BOND ISSUE WHAT THE LEGAL FEES FOR BOND COUNSEL WILL BE. The proposal must also state whether there would be a charge for future legal services incidental to the issuance of the bonds, and if so, what type of fee would be charged (e.g., hourly, no charge for first X number of hours, etc.).
- AS YOU PREPARE YOUR PROPOSAL, PLEASE NOTE THAT NO FUNDS ARE AVAILABLE FROM THE STATE OF UTAH, THE ATTORNEY GENERAL'S OFFICE, THE BOARD, OR SLCC FOR PAYMENT OF FEES OR COSTS IF BONDS ARE NOT ISSUED. The Attorney General, in consultation with the appropriate officials from the Board and SLCC, will allow for adjustments in disclosure counsel fees, if there are unusual or unforeseen circumstances that require significant additional services by bond counsel, and if funds are available from the bond issue.
- C. The number of appointments of, and the total fees received by, the firm in the last three (3) years for bonding work (including note projects) on behalf of the State, the State Board of Regents, any of the State’s colleges or universities, or the Utah Higher Education Assistance Authority.

OTHER MATTERS FOR CONSIDERATION

1. A firm may submit proposals to serve as bond counsel, as disclosure counsel, or both. If the fee for serving as both bond counsel and disclosure counsel would be different than just combining the fees submitted to serve as bond counsel and to serve as disclosure counsel separately, that must be stated in the proposal (e.g., \$20,000 if appointed as bond counsel, \$10,000 if appointed as disclosure counsel, and \$25,000 if appointed as both bond counsel and disclosure counsel).

2. The Attorney General will make the determination, after consulting with officials for the Board and SLCC, whether to appoint different firms to serve as bond counsel and disclosure counsel, even if significant savings to the State could be obtained by appointing one firm to serve in both capacities.

3. Should a key attorney in a firm leave that firm during the period of the firm's appointment under this RFP, the Attorney General reserves the right (a) to have the appointment follow the attorney to the attorney's new firm, (b) to leave the appointment with the firm originally appointed, or (c) to appoint a new firm to fill the appointment for the remainder of the period. The determination will be at the sole discretion of the Attorney General.

4. SLCC has not yet selected a financial advisor, but is in the process of doing so.

5. SLCC has prepared some preliminary estimates of the savings the college believes it can realize, and a preliminary summary sheet of the proposed bond issue. Both are attached hereto and incorporated herein as Exhibits A and B, respectively.

6. Any firm selected to perform services under this RFP will be required to enter into a written agreement with the Attorney General.

UTAH ILLEGAL IMMIGRATION LAWS

S.B. 81, enacted by the 2008 General Session of the Utah Legislature, and S.B. 39, enacted by the 2009 General Session of the Utah Legislature, impose certain requirements on agencies and political subdivisions of the State of Utah to verify citizenship or legal residency of aliens who enter into contracts with State agencies or political subdivisions. In compliance therewith, the Attorney General will require that the contract any firm selected under this RFP will be required to enter into must contain the following provisions:

CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM": The Status Verification System, also referred to as "E-verify", only applies to contracts issued through a Request for Proposal process, and to sole sources that are included within a Request for Proposal.

A. Status Verification System

1. Law Firm and each person signing on behalf of Law Firm certifies as to its own entity, under penalty of perjury, that the named Law Firm has registered and is participating in the Status Verification System to verify the work eligibility status of Law Firm's new employees that are employed in the State of Utah (State) in accordance with Utah Code Ann. § 63G-11-103.

2. Law Firm shall require that the following provision be placed in each subcontract at every tier for any subcontractor ("Subcontractor") involved on the project(s) covered by this Agreement: "The subcontractor shall certify to the main (prime or general) contractor by affidavit that the subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with Utah Code Ann. § 63G-11-103, and to comply with all applicable employee status verification laws. Such affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work."

3. The Attorney General will not consider a proposal for award, nor will it make any award where there has not been compliance with this Section of the Agreement.

4. Manually or electronically signing Law Firm's proposal is deemed Law Firm's certification of compliance with all provisions of this employment status verification certification required by all applicable status verification laws, including Utah Code Ann. § 63G-11-103.

B. Indemnity Clause for Status Verification System

Law Firm (includes, but is not limited to, Law Firm, or any Consultant or other professional (including any other attorney(s)) retained by Law Firm to assist Law Firm in providing services covered under this Agreement) shall protect, indemnify and hold harmless, the State and its officers, employees, agents, representatives and anyone that the State may be liable for, against any claim, damages or liability arising out of or resulting from violations of the above Status Verification System Section, whether violated by employees or agents of: (a) Law Firm; (b) any Subcontractor (as defined above); and/or (c) any entity or person for whom the Law Firm or Subcontractor may be liable.

DEADLINE FOR SUBMITTING PROPOSALS

Written proposals must be received by the Utah Attorney General, c/o Bryce H. Pettey, Assistant Attorney General, 160 East 300 South, Fifth Floor, P. O. Box 140874, Salt Lake City, UT 84114-0874, **no later than 12:00 p.m. (Noon) on Thursday, November 19, 2009.** A firm need submit only TWO (2) copies of the firm's proposal(s). The Attorney General reserves the right to accept or reject any or all proposals received after the due date, to accept or reject any or all proposals or any or all parts of a proposal, to waive minor defects or technicalities, and to request new proposals.

THE SELECTION PROCESS

In General

The Attorney General will select bond counsel and disclosure counsel based upon each of the criteria set forth above under the respective headings of “**REQUIRED CONTENTS OF PROPOSALS FOR BOND COUNSEL**” and “**REQUIRED CONTENTS OF PROPOSALS FOR DISCLOSURE COUNSEL**”. All criteria set forth under those headings are important, but the criteria in paragraph A under each heading will be given the greatest weight. Each of the subparagraphs of each paragraph A will be given equal weight, and the subparagraphs will be evaluated in the order they appear in each paragraph A.

A firm must first be determined to be qualified under paragraph A to perform the services described for bond counsel or disclosure counsel. After passing that threshold, the factors in paragraphs B and C will be considered. The lowest proposed fees will be an important factor in selecting bond counsel and disclosure counsel, but other factors will also be considered, and the firm submitting the lowest proposed fee will not necessarily be the firm that is selected.

The Attorney General may seek input from appropriate State officials, Board officials, SLCC officials, and from other prior issuers who have had experience with firms submitting proposals. Such input may be considered by the Attorney General in making the selection.

Oral Presentations

After reviewing the written proposals, the Attorney General may select bond counsel, disclosure counsel, or both at that time; however, the Attorney General reserves the option of selecting several of the top applicants for bond counsel and several of the top applicants for disclosure counsel (selected on the basis of the written proposals) to make oral presentations to supplement the information in the written proposals. The Attorney General will decide whether oral presentations are needed or desirable, based upon factors brought to the Attorney General’s attention by the Attorney General’s staff and officials from the Board and SLCC, the amount of time available to hear such presentations, and the Attorney General’s own schedule. The Attorney General may choose to have those oral presentations made to a panel of persons of the Attorney General’s own choosing; if so, the Attorney General may or may not be a member of that panel. Information in those oral presentations, and any recommendations from a panel or panel members, may be considered by the Attorney General, along with the information in the written proposals, in making the selection.

If the Attorney General decides oral presentations are needed or desirable, the firms selected after initial review of the written proposals will be contacted by the Attorney General's office, and arrangements will be made to have the firms make their oral presentations. After these presentations, the Attorney General will select bond counsel and disclosure counsel.

NOTICE OF SELECTION

After the Attorney General has selected the firms, the selected firms will be notified. If a firm the Attorney General has selected is unable or unwilling to accept the appointment, the Attorney General will select another firm based upon the same criteria used to select the first firm. After firms have been selected that are willing to, and do, accept the appointments under this RFP for bond counsel and disclosure counsel, a general announcement will be made to the public. It is anticipated bond counsel and disclosure counsel will be named no later than Thursday, December 3, 2009. Interested persons can learn the name of the firm(s) appointed by calling 801-366-0375 on Thursday, December 10, 2009.

NON-DISCLOSURE OF REASONS FOR SELECTING FIRM APPOINTED AND OF INFORMATION IN PROPOSALS; POSSIBLE REQUIREMENT TO DISCLOSE

Utah Admin. Code R. 105-1 (2008) provides that the reasons for selecting the firms that are appointed will not be made available to anyone. However, like all other State agencies, the Attorney General's office is subject to the Government Records Access and Management Act ("GRAMA") (Chapter 2, Title 63G, Utah Code Ann. (West Supp. 2008)). GRAMA makes most documents held by government entities in the State of Utah "public records," as defined in GRAMA. It is not yet clear just what effect GRAMA has upon proposals submitted in response to an RFP, such as this one. The Attorney General's office continues to analyze GRAMA for its effect on all written documents received by the Attorney General's office, including proposals received in response to an RFP, but all persons submitting proposals are on notice that the Attorney General may not be able to keep the information in the proposals confidential. **A firm desiring to protect the confidentiality of all or part of the contents of its proposal may wish to consider the applicability of Utah Code Ann. § 63G-2-309 (West Supp. 2008).**

FURTHER INFORMATION

Should you have questions relating to the business aspects of the bond issue, please contact: Dr. Gregory L. Stauffer, Associate Commissioner for Finance and Facilities (telephone 801-321-7131, or e-mail gstauffer@utahsbr.edu); Dennis R. Klaus, Vice President of Business Services of SLCC (telephone 801-957-4250, or e-mail dennis.klaus@slcc.edu); or Douglas Hansen, Comptroller of SLCC (telephone 801-959-4084, or e-mail dennis.hansen@slcc.edu). Firms should feel free – and indeed are encouraged – to contact Dr. Stauffer, Mr. Klaus or Mr. Hansen directly with any questions they may have regarding the business aspects of the bond issues described above. There is no need for a firm to contact the Attorney General's office first before making inquiry of the Board or SLCC.

Should you have questions relating to this RFP, or relating to the Attorney General's process of selecting bond counsel, please contact Bryce H. Pettet of the Utah Attorney General's Office (telephone 801-366-0375, fax 801-366-0378, or e-mail bpettet@utah.gov).